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APR 11 2005

O I P E  
PRACTITIONER'S DOCKET NO. K-2015

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Hill, Tod D.

Application No.: 10 / 749,331 Group No.: 3673  
 Filed: 12/31/2003 Examiner: Kreck, John  
 For: CORE BREAKER FOR AN EARTH STRATA  
 CUTTING ASSEMBLY  
**Mail Stop Amendment**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

## AMENDMENT TRANSMITTAL

**WARNING:** Failure to file a complete response in compliance with § 1.135(c) leads to a reduction in patent term adjustment — See § 1.704(c)(7).

1. Transmitted herewith is an amendment for this application.

## STATUS

2. Applicant is

a small entity. A statement:  
 is attached.  
 was already filed.  
 other than a small entity.

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*

(When using Express Mail, the Express Mail label number is mandatory;  
 Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

## MAILING

deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

with sufficient postage as first class mail.

37 C.F.R. § 1.10 \*

as "Express Mail Post Office to Addressee"

Mailing Label No. \_\_\_\_\_ (mandatory)

## TRANSMISSION

facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_



Signature

Date: April 8, 2005

Rhonda L. Sanders

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Amendment Transmittal [9-19]—page 1 of 4)

## EXTENSION OF TERM

**NOTE:** "Extension of Time in Patent Cases (Supplement Amendments) — If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-35).

**NOTE:** See 37 C.F.R. § 1.645 for extensions of time in interference proceedings, and 37 C.F.R. § 1.550(c) for extensions of time in reexamination proceedings.

**NOTE:** 37 C.F.R. § 1.704(b) ". . .an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

(complete (a) or (b), as applicable)

(a)  Applicant petitions for an extension of time under 37 C.F.R. § 1.136 (fees: 37 C.F.R. § 1.17(a)(1)-(4) for the total number of months checked below:

Extension (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input type="checkbox"/> one month	\$ 120.00	\$ 60.00
<input checked="" type="checkbox"/> two months	\$ 450.00	\$ 225.00
<input type="checkbox"/> three months	\$ 1,020.00	\$ 510.00
<input type="checkbox"/> four months	\$ 1,590.00	\$ 795.00

Fee: \$ 450.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

An extension for \_\_\_\_\_ months has already been secured. The fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 450.00

OR

(b)  Applicant believes that no extension of term is required. However, this is a conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

(Amendment Transmittal [9-19]—page 2 of 4)

**FEE FOR CLAIMS**

4. The fee for claims (37 C.F.R. § 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3)	SMALL ENTITY	OTHER THAN A SMALL ENTITY
CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDIT. FEE <b>OR</b> ADDIT. FEE
TOTAL	MINUS **	=	× \$25 = \$	× \$50 = \$
INDEP.	MINUS ***	=	× \$100 = \$	× \$200 = \$
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM			+\$180 = \$	+\$360 = \$
			TOTAL ADDIT. FEE \$	<b>OR</b> TOTAL ADDIT. FEE \$

- \* If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.
- \*\* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20."
- \*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3."
- The "Highest No. Previously Paid For" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

**WARNING:** "After final rejection or action (§ 1.113) amendments may be made cancelling claims or complying with any requirement of form which has been made." 37 C.F.R. § 1.116(a) (emphasis added).

(complete (c) or (d), as applicable)

(c)  No additional fee for claims is required.**OR**(d)  Total additional fee for claims required \$ \_\_\_\_\_**FEE PAYMENT**

- Attached is a  check  money order in the amount of \$ 450.00
- Authorization is hereby made to charge the amount of \$ \_\_\_\_\_
- to Deposit Account No. \_\_\_\_\_
- to Credit card as shown on the attached credit card information authorization form PTO-2038.

**WARNING:** Credit card information should not be included on this form as it may become public.

- Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.
- A duplicate of this paper is attached.

## FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, (1065 O.G. 31-33).

6.  If any additional extension and/or fee is required, charge Account  
No. 02-2267

### AND/OR

If any additional fee for claims is required, charge Account  
No. 02-2267



SIGNATURE OF PRACTITIONER

Reg. No.: 28,688

Stephen T. Belsheim

(type or print name of practitioner)

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(Amendment Transmittal [9-19]—page 4 of 4)



PATENT  
K-2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Hill )  
Serial No. 10/749,331 )  
Filed: December 31, 2003 )  
For: CORE BREAKER FOR AN EARTH )  
STRATA CUTTING ASSEMBLY )

Examiner Kreck, John J.  
Art Unit 3673  
Confirmation 8201

Assistant Commissioner of Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Date: April 8, 2005

Sir:

Please find applicant's response to the pending office action.

**Certificate of Mailing (37 CFR 1.8(a))**

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22131-1450.

Date: APRIL 8, 2005

Signature:   
Rhonda L. Sanders

Type or Print Name of Person Certifying

**RESPONSE TO THE NON-FINAL OFFICE ACTION OF DECEMBER 6, 2004**

**Introduction**

This paper is responsive to the pending Office Action mailed in the above case on December 6, 2004.

04/12/2005 FFAHAI2 00000012 10749331

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